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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,508	09/16/2003	Prima S. Chambers	6302US	1869
30173	7590	02/15/2006	EXAMINER	
GENERAL MILLS, INC. P.O. BOX 1113 MINNEAPOLIS, MN 55440			LUONG, SHIAN TINH NHAN	
			ART UNIT	PAPER NUMBER
			3728	
DATE MAILED: 02/15/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/663,508

Applicant(s)

CHAMBERS ET AL.

Examiner

Shian T. Luong

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) 15, 27-30, 50, 54, 55, 67, 68, 70 and 71 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-26, 31-48, 51-53 and 56-66 is/are rejected.
- 7) ☒ Claim(s) 14, 49 and 69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/10/04</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Claims 15,27-30,50,54,67-68,70-71 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/18/06.

***Claim Rejections - 35 USC § 112***

2. Claims 9 and 57-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 depends from itself and thus is indefinite. For the purpose of this Office Action, it depends from claim 10. Also in claim 8, the base panel does not cover a portion of each of the bar code symbols on the package because the bar code symbol is on the rear side of each package and not on the bottom side of the package as shown in Figures 5B and 6B and the disclosure on page 19 of the specification. Claim 57 is indefinite and confusing. If the multiplicity of packaged good articles has only one outer package with a bottom region, then it is not clear how the product array has a combination of the respective bottom regions. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 56-57 are rejected under 35 U.S.C. 102(b) as being anticipated by Whiteside (US 5,607,056). Whiteside discloses a carrier 10 with a base panel and first and second side panels 16,18 extending from opposite sides of the base panel 14. A multiplicity of packaged good articles in a major face-to-major-face fashion to define a product array defining a top, a bottom, a front, a back and opposing sides. The bottom of the product array is on the base panel. The first side panel extends along a portion of the front of the product array and the second side panel extends along a portion of the back of the product array. Securing adjacent ones of the multiplicity of packaged good articles to one another by placing a band 30 around the base panel. A handle is the top portion of the band and is extending from the front of the product array to the back of the product array across the top of the product. The handle is a separate part from the carrier.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3,8-9,12-13,16-19,21,22,23,24,25,26,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gloyer (Des. 297,916) or Gloyer (US 4,930,633) in view of Blachon (US 4,827,114) and Gandini (US 6,041,572) and/or Danovaro et al. (US 5,570,787). Either of the Gloyer reference discloses at least three containers face one another in at least an array. The containers are stored within a carrier with a base panel and two side panels. A retainer secures

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the interior package to the outer packages. Gloyer does not disclose a handle, flexible packages and a retaining mean that has adhesive thereon as required in claim 1. However, Blachon teaches wrapping a plurality of flexible packages within a carrier as shown in Figures 6 and 13. Gandini teaches a package of two or more grouped items face one another. The package has an adhesive retaining means 1 surrounding the side of the packages and an elongated handle 3 with adhesive to secure over the top portion of the package. Danovaro et al. also teaches a device for bundling up containers. A handle 5 with adhesive is secured to a panel on each end. On a bottom portion of a mid portion of the handle, a label 6 made out of paper or other material is secured thereon. Therefore, it would have been obvious in view of Blachon and Gandini and/or Danovaro et al. to provide a handle to facilitate carrying of the packages and adhesive on the retaining means to secure the containers for transportation.

With respect to claim 2, the side panels are hingedly secured to the base panel.

With respect to claim 3, the carrier of Gloyer '633 is made out of cardboard or paper strip. Cardboard is a form of paperboard. With respect to Gloyer '916, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the carrier out of paperboard, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to claim 8, Blachon teaches placing the base panel and the side panels in a manner to obscure the bar code on each package. It would have been obvious to cover the bar code symbol on each package to prevent unwanted scanning of each package.

With respect to claims 16 and 24, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the handle strip out of transparent material with top film layer and line film layer and the tape strip out of transparent material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. With respect to claim 18, the elongated strip can be made out of other materials such as plastic as also an obvious design choice.

With respect to claim 21, it would have been obvious to determine the appropriate width of the elongated strip through routine experiments to prevent excessive material cost.

With respect to claim 25, the tape strip is tearable.

7. Claims 4-7,11,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Official Notice. Neither of the Gloyer reference disclose the indicia on the individual package. However, providing indicia such as trade name and the flavor on desired locations such as top or bottom regions of the package is notoriously known in the art. It is also well known to display the indicia on the packages when secured within a carrier. Hence, it would have been obvious in view of Official Notice to provide indicia and display them in a carrier to attract the buyers.

With respect to claim 11, it is also well known to have different packages within the same carrier to allow a purchase to have a variety of products.

With respect to claim 20, it would have been obvious to provide indicia on the top side of the elongated strip for additional advertising purposes as a feature well known in the art.

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8. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Kay (US 5,177,368). Neither of the Gloyer reference discloses obscuring bar codes on each package. However, Kay discloses providing a carrier as shown in Figure 7 with the base panel obscuring the bar code in the same manner as applicant obscuring his bar codes. A bar code is also provided on the bottom of the base panel for a store clerk to scan the bar code for the entire package. Hence, it would have been obvious in view of Kay to obscure the bar code on the individual package and yet provide a bar code for all the contents within the carrier.

9. Claims 32-36,38-39,40,47-48,51,52,53,56-57,66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gloyer (Des. 297,916) or Gloyer (US 4,930,633) in view of Gandini (US 6,041,572) and/or Danovaro et al. (US 5,570,787). Either of the Gloyer reference discloses at least three containers in contact and faces one another in at least an array. The containers are stored within a carrier with a base panel and two side panels. A retainer secures the interior package to the outer packages. Gloyer does not disclose a handle and a retaining mean that has adhesive thereon as required in claim 32. However, Gandini teaches a package of two or more grouped items face one another. The package has an adhesive retaining means 1 surrounding the side of the packages and an elongated handle 3 with adhesive to secure over the top portion of the package. Danovaro et al. also teaches a device for bundling up containers. A handle 5 with adhesive is secured to a panel on each end. On a bottom portion of a mid portion of the handle, a label 6 made out of paper or other material is secured thereon. Therefore, it would have been obvious in view of Gandini and/or Danovaro et al. to provide a handle to facilitate carrying of the packages and adhesive on the retaining means to secure the containers for transportation.

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With respect to claim 32, the carrier of Gloyer'633 is made out of cardboard or paper strip. Cardboard is a form of paperboard. With respect to Gloyer '916, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the carrier out of paperboard, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to claims 40 and 51,53, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the handle strip out of transparent material with top film layer and line film layer and the tape strip out of transparent material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. With respect to claim 18, the elongated strip can be made out of other materials such as plastic as also an obvious design choice.

With respect to claims 38 and 39, it would have been obvious to determine the appropriate filled volume and the height of the package through routine experiments to prevent excessive material cost.

With respect to claim 25, the tape strip is tearable.

10. Claims 37,41-43,59,60-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 32 or 56, further in view of Official Notice.

With respect to claims 41-43 and 60-63, neither of the Gloyer reference discloses the indicia on the individual package. However, providing indicia such as trade name and the flavor



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on desired locations such as top or bottom regions of the package is notoriously known in the art.

It is also well known to display the indicia on the packages when secured within a carrier.

Hence, it would have been obvious in view of Official Notice to provide indicia and display them in a carrier to attract the buyers.

With respect to claims 37 and 59, it is known in the art to organize the packages in any orientations such as having the major surface of the package facing downward on the base panel to secure the packages in a carrier.

11. Claims 44-46, 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 32 and 56, further in view of Kay (US 5,177,368). Neither of the Gloyer reference discloses obscuring bar codes on each package. However, Kay discloses providing a carrier as shown in Figure 7 with the base panel obscuring the bar code in the same manner as applicant obscuring his bar codes. A bar code is also provided on the bottom of the base panel for a store clerk to scan the bar code for the entire package. Hence, it would have been obvious in view of Kay to obscure the bar code on the individual package and yet provide a bar code for all the contents within the carrier.

12. Claim 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 57, further in view of Blachon.

With respect to claim 58, Blachon teaches placing the base panel and the side panels in a manner to obscure the bar code on each package. The base panel and the side panels store a plurality of flexible bags. It would have been obvious to store other articles such as flexible bags within the carrier of Gloyer as taught by Blachon.

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*Allowable Subject Matter*

13. Claims 14,29,69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

14. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H


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from 7:00am to 4:00pm EST. The examiner's supervisor Mickey Yu can be reached at (571) 272-4562 for urgent matters.

STL  
February 14, 2006

  
Primary Examiner  
Shian Luong  
Art Unit 3728